

BEFORE THE COMMISSIONER OF
POLITICAL PRACTICES

In the Matter of the Complaint)	SUMMARY OF FACTS
Against the Bitterroot Valley)	AND
Board of Realtors)	STATEMENT OF FINDINGS

Marilyn Owns Medicine filed a complaint alleging that the Bitterroot Valley Board of Realtors violated Montana campaign finance and practices laws.

SUMMARY OF FACTS

1. In the November 7, 2006 election a ballot issue was submitted to the voters of Ravalli County. Commonly known as the “1 per 2 measure,” the ballot issue proposed adoption of an interim zoning regulation that would limit subdivisions within the county to a density of one dwelling per two acres, with limited variances permitted.

2. The Bitterroot Building Association (BBA), which has now been renamed the Bitterroot Building Industry Association, is a trade and industry membership organization that supports the construction and building industry in the Bitterroot Valley area. The BBA has been in existence since 1996.

3. The BBA opposed the 1 per 2 measure prior to the 2006 election. The BBA filed a C-2 Statement of Organization with the office of the Commissioner of Political Practices (CPP), identifying itself as an incidental political committee.

4. The Bitterroot Valley Board of Realtors (BVBR) is a membership organization that was established in 1988. According to its website, BVBR provides support, information, and services to realtors and other real estate professionals. No evidence was disclosed tending to show that BVBR was originally established for political purposes.

5. BVBR is not a member of BBA. However, BVBR and BBA have had a working relationship for several years. Both organizations have an informal agreement to work together on projects that are mutually beneficial to each organization.

6. BVBR decided to oppose the 1 per 2 measure by contributing money to BBA. BVBR contributed \$10,000 to BBA with two separate checks. The first check, dated October 10, 2006, was for \$6,505.06. The second check, dated October 11, 2006, was for \$3,494.94.

7. BVBR did not immediately register and file reports with CPP following its contributions to BBA. According to BVBR Executive Officer Layna Lyons, she was told by Karen Thompson, Executive Officer of BBA, that it was not necessary for BVBR to file any documents with CPP since BBA had already registered as an incidental political committee.

8. On October 31, 2006, BVBR filed with CPP a form C-2 (Statement of Organization) and a form C-4 (Incidental Political Committee Finance Report).

9. The C-2 describes BVBR's purpose as follows:

Vision Statement – To sustain a strong local board of realtors that maintains and encourages involvement within our membership and community and enables realtors to operate their businesses in a successful and professional manner.

The C-2 indicated that BVBR opposed the 1 per 2 measure.

10. The C-4 reported an expenditure of \$10,000 to BBA on October 11, 2006. The C-4 was designated as BVBR's closing report, and BVBR did not file any additional campaign finance reports related to the 2006 election cycle.

11. Marilyn Owns Medicine is the President of the BFP Action Committee. She filed a complaint on November 30, 2006, alleging that BVBR violated Montana laws by failing to register with CPP as a political committee and failing to file campaign finance reports disclosing its campaign activities.

12. In a written response to the complaint, BVBR President Pamela Wood stated that at the time it made its contributions to BBA, BVBR was under the impression that it did not have to register and file campaign finance reports with CPP. She noted that as soon as representatives of BVBR learned that they were required to file as an incidental committee, they filed the appropriate reports with CPP.

STATEMENT OF FINDINGS

An incidental political committee is defined as “a political committee that is not specifically organized or maintained for the primary purpose of influencing elections but that may incidentally become a political committee by making a contribution or expenditure to support or oppose a candidate and/or issue.” (44.10.327(2)(c), ARM.) Based on information provided on its C-2, and the evidence disclosed during the investigation, when BVBR contributed to BBA it became an incidental political committee. (Facts 4, 6, and 10.)

The Legislature has authorized CPP to establish reporting requirements for incidental political committees. (§ 13-37-226(6), MCA.) 44.10.411, ARM, sets forth reporting responsibilities for incidental political committees. An incidental committee must file an “organizational statement” (a C-2 Statement of Organization), as required by § 13-37-201, MCA, within five days after it makes an expenditure, and must thereafter file periodic campaign finance reports. (44.10.411(1), ARM.) BVBR made its initial expenditure on October 10, 2006. (Fact 6.) BVBR was required to file a C-2 no later than October 16, 2006. BVBR filed its C-2 15 days after the due date, on October 31, 2006. (Fact 9.)

ARM 44.10.411(3) requires an incidental political committee that makes a contribution or expenditure related to a local ballot issue to file a pre-election campaign finance report two days before the deadline specified in § 13-37-226(3)(a), MCA. Since the election was held on November 7, 2006, BVBR was required to file its C-4 no later than October 24, 2006. BVBR’s report, filed on October 31, 2006, was filed seven days late. (Fact 9.)

CONCLUSION

Based on the preceding Summary of Facts and Statement of Findings there is sufficient evidence to conclude that the Bitterroot Valley Board of Realtors violated Montana campaign finance reporting and disclosure laws and rules, and that a civil penalty action under section 13-37-128, MCA, is warranted.

Dated this 24th day of November, 2008.



Dennis Unsworth
Commissioner